

TARTER KRINSKY & DROGIN LLP

Counsel to the Chapter 7 Trustee

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**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

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In re:

Chapter 7

DAVID MILLER,

Case No.: 17-10001 (SHL)

Debtor.

-----X

**ROBERT L. GELTZER, as Chapter 7 Trustee of
David Miller,**

Adv. Pro. No. 17-01184 (SHL)

Plaintiff,

— v —

DAVID MILLER,

Defendant.

-----X

**NOTICE OF PRESENTMENT OF PROPOSED ORDER
DISMISSING ADVERSARY PROCEEDING**

PLEASE TAKE NOTICE that pursuant to the attached proposed *Stipulation of Dismissal of Adversary Proceeding* (the “Proposed Stipulation”) by and between (i) David Miller (the “Debtor”), the debtor in the above-captioned case and the defendant in the above-captioned adversary proceeding, and (ii) Robert L. Geltzer as Chapter 7 trustee (the “Trustee”) of the Debtor’s estate and the plaintiff in the above-captioned adversary proceeding, the Trustee, by his undersigned counsel, Tarter Krinsky & Drogin LLP, will present to the Honorable Sean H. Lane, United States Bankruptcy Judge, at his chambers located at the United States Bankruptcy Court

for the Southern District of New York, One Bowling Green, New York, New York 10004 on **February 21, 2019 at 12:00 p.m.** (the "Presentment Date"), for the Court's approval and so ordering, the attached proposed order (the "Proposed Order") dismissing the above-captioned adversary proceeding.

PLEASE TAKE FURTHER NOTICE that objections, if any, to the Proposed Order or the Court's approval of the attached Proposed Stipulation must be in writing and must be served upon the undersigned attorneys for the Trustee, with a copy to the Chambers of the Honorable Sean H. Lane, United States Bankruptcy Court, One Bowling Green, New York, New York 10004-1408, so as to be received no later than **February 21, 2019 at 11:30 a.m.** and filed with the Clerk of the Bankruptcy Court.

PLEASE TAKE FURTHER NOTICE, that any such objection shall state the name of the objecting party, its status as a party-in-interest, and the basis of the objection.

PLEASE TAKE FURTHER NOTICE that in the event an objection is timely filed, the objecting party shall contact the chambers of the Honorable Sean H. Lane at (212) 668-5637 on or before the Presentment Date to request a hearing on the objection.

Dated: New York, New York
January 25, 2019

TARTER KRINSKY & DROGIN LLP
Counsel to the Chapter 7 Trustee

By /s/ Jill Makower
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Plaintiff,

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STIPULATION OF DISMISSAL OF ADVERSARY PROCEEDING

WHEREAS, Robert L. Geltzer, the Chapter 7 trustee (the “Trustee”) in the above-captioned case, commenced the above-captioned adversary proceeding (the “Adversary Proceeding”) against David Miller, the debtor and defendant herein (the “Debtor”), seeking an order denying the Debtor’s discharge pursuant to sections 727(a)(3), (a)(4) and (a)(5) of Title 11, United States Code (the “Bankruptcy Code”); and

WHEREAS, the Debtor failed to timely respond the Trustee’s complaint in the Adversary Proceeding; and

WHEREAS, the Trustee filed a motion dated December 15, 2017 (the "Motion") seeking a default judgment in the Adversary Proceeding denying the Debtor a discharge; and

WHEREAS, the Trustee's Motion came before the Court on January 23, 2018, at which time the Debtor appeared with new counsel who stated the Debtor continuously had issues reaching his bankruptcy counsel Attorney Vassallo and that Attorney Vassallo did not provide to the Trustee the documents that the Debtor had given to him; and

WHEREAS, the Debtor, acting through new counsel (who has since been relieved as Debtor's counsel) substantially complied with the Trustee's document requests; and

WHEREAS, the Trustee has determined it is in the best interests of the estate to dismiss the Adversary Proceeding.

NOW THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by the plaintiff Trustee, through his undersigned counsel, and the Debtor, pro se, that:

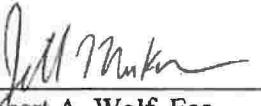
1. Subject to approval of the Bankruptcy Court, the Adversary Proceeding is dismissed pursuant to Rule 7041 of the Federal Rules of Bankruptcy Procedure and Rule 41(a)(2) of the Federal Rules of Civil Procedure.

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2. Each party shall bear its own legal fees and costs.

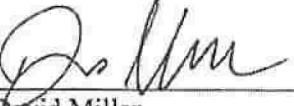
Dated: New York, New York
January 25, 2019

TARTER KRINSKY & DROGIN LLP
Counsel to Plaintiff - Chapter 7 Trustee

By: 

Robert A. Wolf, Esq.
Jill Makower, Esq.
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New York, New York 10018
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Dated: New York, New York
January 24, 2019


David Miller
14 B Edgewater Park
Bronx, New York 10465

SO ORDERED

This day of January, 2019

HONORABLE SEAN H. LANE
UNITED STATES BANKRUPTCY JUDGE

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In re:

DAVID MILLER,

Chapter 7

Case No.: 17-10001 (SHL)

Debtor.

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David Miller,

Adv. Pro. No. 17-01184 (SHL)

Plaintiff,

— v —

DAVID MILLER,

Defendant.

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ORDER DISMISSING ADVERSARY PROCEEDING

The Court having so-ordered and entered a "Stipulation of Dismissal of Adversary Proceeding", the above-captioned adversary proceeding is hereby dismissed pursuant to Rule 7041 of the Federal Rules of Bankruptcy Procedure and Rule 41(a)(2) of the Federal Rules of Civil Procedure.

Dated: New York, New York
_____, 2019

**HONORABLE SEAN H. LANE
UNITED STATES BANKRUPTCY JUDGE**